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IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, etc., *et al.*,

Appellants,

v.

HAMPTON COUNTY ELECTION COMMISSION, etc., *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

JOINT APPENDIX

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TABLE OF CONTENTS

PAGE

Relevant Docket Entries 1a

Complaint 3a

Answer of Hampton County Election Commission, *et al.* 27a

Answer of Hampton County School District Number One, *et al.* 33a

Amended Answer of Hampton County School District Number Two 41a

Letter of Gerald W. Jones to C. Havird Jones, Jr., April 27, 1982 ..... 50a

Letter of Gerald W. Jones to C. Havird Jones, Jr., April 28, 1982 ..... 52a

Letter of Gerald W. Jones to C. Havird Jones, Jr., June 2, 1982 ..... 53a

Act No. R 413 (1982) 55a

Letter of Gerald W. Jones to C. Havird Jones, Jr., June 4, 1982 ..... 56a

Letter of Gerald W. Jones to Marion S. Riggs, June 22, 1982 ..... 57a

Letter of William Bradford Reynolds to C. Havird Jones, Jr., August 23, 1982 ..... 58a

Letter of C. Havird Jones, Jr. to Representative Douglas E. McTeer, Jr., August 26, 1982 ..... 61a

PAGE

Letter of C. Havird Jones, Jr. to William Bradford Reynolds, August 31, 1982 ..... 63a

Letter of William Bradford Reynolds to C. Havird Jones, Jr., November 19, 1982 ..... 65a

Letter of Treva G. Ashworth to Randolph Murdaugh, III, January 4, 1983 ..... 67a

Affidavit of John W. Dodge, July 13, 1983 ..... 70a

Letter of Randolph Murdaugh, III to Daniel R. McLeod, November 29, 1982 ..... 74a

Relevant Docket Entries

Date	*Entry*
March 11, 1983	Summons and Complaint . . .
March 12, 1983	Motion . . . by pl[aintiff] for TRO and Prelim[inary] Inj[unction] . . .
March 14, 1983	Evidentiary Hearing . . . Motion for TRO—denied. Request for 3-judge court certification—granted.
April 3, 1983	Answer of defendants Darnell DeLoach. . . .
April 30, 1983	Answer of Defendants Hampton County Election Comm[ission]. . . .
May 1, 1983	Answer of defendants Hampton County School Dist[rict] No. 1.
May 2, 1983	Designation of Three Judge Court. . . .
June 13, 1983	3-Judge Court Hearing. . . .
June 17, 1983	Answer of def[endants] Hampton County School District No. 2 . . .
July 15, 1983	Motion . . . by def[endants] Hampton County School District No. 2 . . . for partial s[ummary] j[udgment] on the 1st cause of action . . .
July 21, 1983	3-Judge Court Hearing . . . case does not require 3-Judge panel. Pl[aintiffs'] request for preliminary injunction is denied.
September 9, 1983	Order . . . memorializing oral ruling from bench on 7-21-83, that 3-Judge Court is dissolved; and that the court denies pl[aintiffs'] request

Relevant Docket Entries

Date	*Entry*
	for injunctive relief and dismisses those portions of the Complaint which seek any relief from this Court under Section 5 of the Voting Rights Act of 1965. . . .
October 5, 1983	Amended answer of def[endants] Hampton County School Dist[rict] No. 2. . . .
October 11, 1983	Notice of Appeal of pl[aintiffs] of Order entered 9-9-83. . . .

Complaint for Declaratory and Injunctive Relief Filed March 11, 1983

1. *Jurisdiction*

1.

The Jurisdiction of this Court is invoked under 28 U. S. C. Sections 1331, 1343 (3), 1343 (4), and 2201 *et seq.*, this suit being authorized by 42 U. S. C. Sections 1973 c and 1983. A Court of three judges is required by section 1973 c.

2.

This is also a suit in equity under Section 2 of the Voting Rights Act of 1965, as amended, Pub. L. No. 97-205, Section 3, 96 Stat. 134 (1982), 42 U. S. C. Section 1983, and the Fourteenth and Fifteenth Amendments to the United States Constitution for declaratory and injunctive relief against the implementation of an Act of the South Carolina Legislature to abolish the Hampton County Board of Education, to abolish the office of Hampton County Superintendent of Education, to devolve their respective duties upon the Trustees for Hampton County School Districts Numbers One and Two and against a scheduled election of Trustees pursuant to such Act and to declare the existence of the Hampton County School Board and the Office of Hampton County Superintendent of Education, the rights of persons elected as members of the Hampton County Board of Education on November 2, 1982, to assume their respective offices, and the consolidation of school districts within Hampton County under the jurisdiction of the Hampton County Board of Education.

3

This Court, as a Single Judge Court, has jurisdiction over this action pursuant to 42 U. S. C. Section 1973 j (f) and 28 U. S. C. Sections 1331, 1343, 344, 2201, and 2202.

II. *Parties*

4.

Plaintiff National Association for the Advancement of Colored People (NAACP), Inc., is an international organization engaged in activities which foster the protection of the civil rights and civil liberties of persons of African descent, promoting social, economic and political development of such persons, and generally advancing the cause of human rights. Plaintiff Hampton County, South Carolina, Branch of the National Association for the Advancement of Colored People is an integral component of the first mentioned Plaintiff.

5.

All individually named Plaintiffs are Black citizens of the United States and residents and electors of Hampton County, South Carolina.

6.

Plaintiffs Brooks, Gordon, and Dixon were duly elected as members of the Hampton County Board of Education on November 2, 1982 and are qualified and certified to assume the offices to which they have been elected.

7.

Plaintiff Jack J. DeLoach is the current President of the Hampton County Branch of the NAACP. Plaintiff James W. Fennell is the immediate past President of this organization.

8.

Plaintiffs Brooks, Gordon, Dixon, DeLoach, Jessie M. Taylor, McKay, Soletta Taylor, Carr, Hazel, Martin,

Garvin, and Williams are residents of the area of Hampton County which has traditionally comprised Hampton County School District Number Two.

9.

Plaintiffs Fennell, McQuire, Green and Capers are residents of the area of Hampton County, South Carolina which has traditionally comprised Hampton County School District Number One.

10.

Plaintiffs bring this action as a class action pursuant to Rule 23 (a) and (b) (2), Fed. R. Civ. P., on behalf of the class consisting of all black citizens and registered voters of Hampton County, South Carolina. As to such class, (1) the class is so numerous that Joinder of all members is impracticable; (2) there are questions of law and fact common to the class; (3) the claims of the Plaintiffs are typical of the class; (4) the representative Plaintiffs will fairly and adequately protect the interests of the class; and (5) the defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate preliminary and final injunctive and declaratory relief with respect to the class as a whole.

11.

The Defendant, Hampton County Election Commission is the public body politic charged with the responsibility of conducting elections within Hampton County, South Carolina. Pursuant to the provisions of an Act of the South Carolina Legislature, designated R 398, H3645, the Commission has scheduled an election on March 15, 1983, for Trustees for Hampton County School Districts Number One and Two. Defendant Murdaugh is Chairperson

and Defendants Sinclair, Wooten, and Smith are members of the Commission.

12.

Defendant Hampton County School District Number One is the public body politic and corporate which is charged with the responsibility for administering certain schools with Hampton County. Defendants Stanley, Bruker, Badger, Kessler, and Ulmer are Trustees for Hampton County School District Number One and are charged with the responsibility of performing certain duties placed upon them by authorization of the aforesaid Act R398, H365.

13.

The Defendant Hampton County School District Number Two is a public body politic and corporate which is charged with the responsibility for administering certain schools within Hampton County. Defendants Kevin D. Darnell, DeLoach, Risher, Farmer, Rushing and Long are Trustees of Hampton County School District Two and are charged with the responsibility of performing certain duties placed upon them by authorization of the aforesaid Act R398, H3645.

14.

Defendants Cohen, Wood, Hopkins, Crews, and Bowers are members of the Hampton County Council, which has jurisdiction over certain matters related to the schools of Hampton County.

15.

Defendant Tuten is the Treasurer of Hampton County and maintains custody and control of money expended for school purposes in Hampton County.

16.

All the individually named defendants are sued individually and in their official capacities.

17.

And all relevant time set out herein, defendants were and have been acting under color of the statutes, ordinances, regulations, customs and usages of the State of South Carolina and the County of Hampton, South Carolina.

III. *Factual Allegations*

18.

The Hampton County Election Commission, the Hampton County School Districts Number One and Two and Hampton County are political subdivisions to which the prohibitions of the Voting Rights Acts of 1965, 42 U. S. C. Section 1973 b (a), are in effect pursuant to the certification of the Attorney General of the United States under 42 U. S. C. Section 1973 b (b). 30 Fed. Reg. 9897.

19.

Defendants have the authority and duty to submit pursuant to 42 U. S. C. Section 1973 c, Section 5 of the Act, "any voting qualifications or prerequisite to voting, or standard, practice or procedure different from that in force or effect on November 1, 1964" to the Attorney General of the United States, or to institute an action in the United States District Court for the District of Columbia for a declaratory judgment that the qualification or prerequisite to voting or standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

20.

According to the 1980 Census, the population of Hampton County is 18,159 of whom 8,577 are white (47%), 9,945 are black (53%), and 197 are Spanish, and the total voting age population of Hampton County is 9,433 of whom 4,764 are black or other (51%) and 4,669 are white (49%).

21.

According to the 1980 Census and official voter registration figures, the black population and black voters are concentrated in the area which comprises School District Number Two.

22.

Prior to November 1, 1964, and continuing until November, 1982, the public school system of Hampton County was governed by the Hampton County Board of Education and administered by the elective Office of Hampton County Superintendent of Education. The county board was appointed by the County Legislative Delegation and, in turn, appointed Trustees to the Boards of Districts One and Two. The administrations of School Districts One and Two operated separately under the general supervision of the office of Hampton County Superintendent of Education.

23.

Prior to the 1970-1971 school year, both School Districts One and Two operated dual school systems based on race. However, by Orders of this Court entered on or about August, 1970, both school districts were required to implement desegregation plans. See, e.g., Exhibit Number Three. In compliance with this Order both school districts have been desegregated at all levels including student population, staff, faculty and administration.

24.

For the 1982-1983 school year there are enrolled in District Number One 1500 Black students (54%) and 1291 White students (46%). In District Number Two there are enrolled 1449 Black students (92%) and 124 White students (8%). Exhibit Number Five.

25.

During the school year 1981-1982, the funds budgeted per student by the Hampton County Council indicated a per student allocation of $252.16 for each student of District Number One and $248.65 for each student of District Number Two.

26.

The South Carolina Department of Education, in its March, 1978 Facility Needs and Administrative Services Survey of Hampton County District Two determined that certain deficiencies were present in District Two and recommended that the Hampton County Board of Education should consider a reorganziation of the systems within Districts One and Two which would provide administrative services to all county schools. The survey team supported a unified county administration with the following characteristics:

1. a single county Board of Education chosen by the direct vote of the people;

2. one District Superintendent appointed by the County Board of Education;

3. a centralized administrative office staffed by specialists charged with serving all county schools;

4. a unified tax base, providing stronger and more equitable support for both capital and operating expenditures.

Following the filing of this survey, efforts have been undertaken by the Hampton County Board of Education and School District Number Two to implement the recommendations of the survey.

27.

Circumstances since 1970 have combined to result in a situation where substantial inequities have developed between the educational opportunities available to citizens of Hampton County who reside in School Districts One and Two respectively. School District One where 91% of the White student population and 74% of the White voting population are resident, has been favored significantly by the official policy of the Hampton County Council and other policy making bodies. Hampton County School District Number Two with its 92% Black student population has become increasingly disadvantaged.

28.

Of the appointed Trustees of the Hampton County School Board as of January 1, 1982, three were black and three white. Two of these blacks were residents of District Number One and one a resident of District Number Two. The three whites were residents of District Number One.

29.

Upon the urging of black and white citizens of Hampton County, the Hampton County Legislative Delegation introduced and the South Carolina General Assembly enacted an Act to provide for the composition and selection of the Hampton County Board of Education to include six elected members and the County Superintendent of Education, *ex officio*. The Act provided for election of the six members in general elections beginning with the 1982 general election, for the six candidates receiving plurality of the

vote to be declared elected and allowed for single-shot voting. (Act R311) Exhibit 8.

30.

Following the enactment of the aforementioned legislation, a petition drive was initiated by white citizens of School District Number One seeking an advisory referendum of the ctizens of Hampton County on the question of whether or not to abolish the County Board of Education and the office of the County Superintendent of Education. This drive culminated in the submission to the Hampton County Council of a petition calling for a county-wide referendum on the aforementioned question. Thereafter, on February 24, 1982 the Hampton County Council in a split vote voted to conduct an advisory referendum. Upon information and belief, all or virtually all of the alleged 1,812 signatories on the petition which was submitted were residents of School District Number One. Additionally the vote was taken in the presence of an overflow crowd of approximately 200 persons in a special meeting location. Upon further information and belief, virtually all of the persons were white residents of School District Number One. Subsequently, because the authority of the County Council to conduct and to fund a referendum on the aforementioned question had been called into question, on March 6, 1982, the Council entered into an agreement with white South Carolina State Representative, Douglas E. McTeer whereby Representative McTeer would introduce a bill in the South Carolina General Assembly for enabling legislation to conduct a referendum concurrently with the efforts of the Council to pursue the procedures provided for by law for conducting such a referendum.

31.

Pursuant to legislation introduced by Representative McTeer which was passed by the South Carolina General

Assembly, the Governor of South Carolina, on April 9, 1982, signed an Act to abolish the Hampton County Board of Education on June 30, 1982, to abolish the Office of Hampton County Superintendent of Education on June 30, 1985, to devolve their respective duties upon the Trustees for Hampton County Districts Numbers One and Two; to provide for election rather than appointment of such Trustees; to make all the foregoing contingent upon a favorable vote of the electors of Hampton County at a referendum; and to provide for such a referendum in Hampton County in May, 1982 (Act R398). Exhibit 9. This legislation was enacted without apparent authority in state law and in contravention of existing statutes which provide for alteration or abolishment of school districts.

On May 25, 1982, a referendum was conducted by the Hampton County Election Commission and the voters approved a proposal to abolish the Hampton County Board of Education and the office of Hampton County Superintendent of Education with their respective duties to devolve upon the Trustees for Hampton County School Districts Numbers One and Two. The results of the referendum indicated that the vote was polarized along racial lines with white citizens voting in favor of the proposition and black citizens voting against it. Exhibit 9A. However, contrary to the mandate of Section 3 of Act 398, the results of the referendum were never certified to the South Carolina Code Commission, and upon information and belief, by reason thereof are null, void and of no effect. Exhibit 9B.

Nonetheless, Defendant Murdaugh and Representative McTeer publicly announced the opinion that the proposition to abolish the aforementioned entities as enacted earlier by the General Assembly had the effect of law, once approved by the voters, and would require no further action by the legislature.

The Defendant Election Commission thereafter confirmed preparations for opening the filing period for candidates for positions as Trustees of School Districts One and Two during the ensuing period of August 16-31, 1982, as provided for in Act R398.

On June 23, 1982, the Hampton County Board of Education adopted an Order of Consolidation consolidating Hampton County School Districts Number One and Number Two into a single county wide school district, pursuant to the provisions of *Section 59-17-50 of the Code of Laws of South Carolina, 1972, as amended.* Exhibits 10 and 11. This Order was duly processed according to procedures established by South Carolina law and now has the force of law. However, under pressure from white citizens of School District Number One who were displeased by the Board's action, the Board met in executive session on June 30, 1982, and adopted a document styled "Vote of Hampton County Board of Education to Rescind Order of Consolidation". Voting in favor of the purported action were four white members. Voting no or abstaining were the black Chairman of the Board and the white Superintendent of Education. The second black member of the Board was not present for the meeting. The announcement of the decision was made to a cheering crowd of more than 300 persons, virtually all from School District Number One, who were assembled in the main courtroom of the Hampton County Courthouse.

32.

South Carolina law provides no procedure for rescission of actions of County Boards of Education consolidating school districts within the County. The purported action of June 30, 1982, is therefore null, void and of no effect.

33.

On information and belief, the Defendant Election Commission opened the filing period for candidates to be elected

on August 16, 1982, ostensibly pursuant to the provisions of Section 1 (b) of Act R398. However, on information and belief, no legal notices of the impending filing period including dates, times and location were ever issued by the Defendant Election Commission. On further information and belief, the Election Commission began receiving filings on or about August 16, 1982, for candidates for the positions of Trustees of School Districts One and Two.

34.

Pursuant to an earlier submission to the United States Justice Department under provisions of Section 5 of the Voting Rights Act by the South Carolina Attorney General, the Assistant Attorney General of the Civil Rights Division, on August 23, 1982, informed the South Carolina official of the results of the Section 5 review which had been completed by the Justice Department of Act R398. It was determined that the change in method of selection of Trustees of School Districts One and Two from appointive to elective did not have either the purpose or effect of discriminating on the basis of race. With respect to the proposal to terminate the County Board of Education, the Attorney General indicated that he was unsatisfied that elimination of the County Board did not deprive Black voters of an opportunity to elect representatives of their choice who can help assure that interests of Blacks would be protected on a county-wide basis, and, thus, interposed an objection to the implementation of Act R398.

35.

The Defendant Election Commission, however, ignored the legal impact of the Justice Department objection and in contravention of provisions of the Voting Rights Act continued to accept filings for candidates for Trustees from School Districts One and Two under provisions of Act

R398 while at the same time, he commenced accepting filings for candidates for the Hampton County School Board pursuant to provisions of Act R311, all filings being received for candidacy in the November 2, 1982, General Election. Exhibit 14.

36.

In the November 2, 1982, General Election six members were elected to the Hampton County Board of Education, including the Plaintiffs Brooks, Gordon and Dixon. The other three members elected were white. Exhibits 15 and 16. However, only one black was elected to a four year term while two blacks were elected to two year terms.

37.

Although under provisions of Act R311, the terms of the newly elective Hampton Board of Education were scheduled to commence on January 1, 1983, the Plaintiffs have not been sworn into office and are not presently acting in the positions to which they were elected because of the wrongful acts of the Defendants in implementing Act R398.

38.

In the meantime, following the August 23, 1982, objection of the Justice Department to implementation of Act R398, certain of the Defendants and Representative Douglas McTeer prompted the South Carolina Attorney General to ask the U.S. Justice Department to reconsider its objection to Act R398. After considerable activity over a protracted period of time, including contacts and visits by several of the Defendants to the Justice Department, the Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice notified the Attorney General of South Carolina that the objection to Act R398 was being withdrawn. Exhibit 17. The withdrawal

was based upon the mistaken premise that the Hampton County Board of Education lacked authority to effect a consolidation of school districts within Hampton County. It was, therefore, concluded incorrectly that abolition of the Hampton County School Board will not prevent meaningful participation by blacks in school affairs.

39.

A spokesperson for the Justice Department was quoted as having said that he was "surprised by the Justice Department's action on its earlier decision", and that *"it was the first reversal he knew of by the department."* (Emphasis added) Exhibit 18.

40.

As a result of the Justice Department action, the proponents of abolishment of the Hampton County School Board "breathed a sigh of relief", the educational system of Hampton County was placed in disarray and black citizens of the County were by reason thereof disadvantaged because of the imminence of the contemplated change. Exhibit 19. Meanwhile, the Defendant Election Commission proceeded to prepare for an election pursuant to Act R398 and on January 12, 1983, caused to be published a Notice of Election, scheduling an election for the purpose of electing Trustees of Hampton County School Districts One and Two for March 15, 1983. Exhibits 20, 21, 22, and 23.

41.

On February 3, 1983, upon having been notified of the impending March 15, 1983 election for School Trustees for Hampton County, the Plaintiff Brooks together with one Adam Major and one Perkins Farmer, members of the class of black Plaintiffs, went to the office of the Defendant Election Commission and presented themselves to file for

vacancies on the two school districts created by Act R398. They were informed that by the Clerk of the Defendant Commission that the deadline for accepting filings of candidates for Trustee positions was August 31, 1982 and that she must refuse to accept their filings at that time. Brooks and Farmer intended to file as candidates for positions on the Hampton County School District Number Two Board of Trustees, while Major intended to file as a candidate for District Number One Trustee.

42.

Act R398 affects the governance of the school system within Hampton County and is a voting qualification or prerequisite to voting or standard, practice or procedure within the meaning of 42 U.S.C. Section 1973c.

43.

This change in voting has not been pre-cleared upon legally permissible grounds by submission to the Attorney General of the United States nor by the Federal Courts for the District of Columbia, and is, therefore, unenforceable.

44.

The Defendants have indicated their intentions of implementing Act R398.

45.

The decision to conduct an election for Trustees of Hampton County School Districts Number One and Two pursuant to the provisions of Act R398 without having first certified the results of the May 25, 1982, enabling referendum to the South Carolina Code Commission as mandated by the provisions of the said Act, is a voting qualification or prerequisite to voting, or standard, prac-

tice or procedure within the meaning of 42 U.S.C. Section 1973c.

46.

This change in voting has not been pre-cleared by submission to the Attorney General of the United States nor by the Federal Courts for the District of Columbia, and is, therefore, unenforceable.

47.

The decision to not allow filings of candidates for the positions of Trustees of Hampton County School Districts Number One and Number Two under Act R398 following the purported pre-clearance of Act 398 by the Attorney General of the United States on November 19, 1982, is a voting qualification or prerequisite to voting, or standard, practice or procedure within the meaning of 42 U.S.C. Section 1973c.

48.

This change in voting has not been pre-cleared by submission to the Attorney General of the United States nor by the Federal Courts for the District of Columbia, and is, therefore, unenforceable.

49.

Abolishment of the office of Hampton County Superintendent of Education, a position which is filled by a county-wide election, as provided for under Act R398, is a voting qualification or prerequisite to voting, or standard, practive or procedure within the meaning of 42 U.S.C. Section 1973c.

50.

This change in voting has not been pre-cleared by submission to the Attorney General of the United States nor by the Federal Courts of the District of Columbia, and is, therefore, unenforceable.

51.

Without having obtained the aforementioned pre-clearances, the Defendants have indicated their intentions of proceeding with an election for Trustees of Hampton County School Districts Number One and Number Two on March 15, 1983.

52.

Act R398 provides for a Hampton County school system which is governed by two separate school boards elected by vote of the electors within the respective districts and has the effect of abolishing the present county-wide elected Hampton County Superintendent of Education, thereby diluting and cancelling out the voting strength of the black electorate of Hampton County. The scheme provided for fragments and splits up black population concentrations, and combines black population concentrations with more populous white population concentrations, thereby diluting and cancelling out minority voting strength.

53.

The state of South Carolina and Hampton County have a long history of official purposeful discrimination against and disfranchisement of qualified black voters that has denied them the opportunity to register, to vote, and otherwise to participate in the Democratic process.

54.

Voting in Hampton County is and has been racially polarized in elections in which black candidates have run for office, with white voters generally voting for white candidates, and black voters voting for non-white candidates for elective office.

55.

Black citizens of Hampton County have long suffered from and continue to suffer from the results and effects of invidious discrimination and treatment in education, employment, income, health, living conditions, and other related areas.

56.

Political campaigns and referenda have been characterized by overt and subtle racial appeals.

57.

The implementation of Act R398 will deny to black voters the opportunity to elect candidates of their choice to elective office.

58.

The Hampton County Council has been and is unresponsive to the particular needs, interests, and concerns of the black community.

59.

By virtue of the foregoing, Act R398 has caused and is causing immediate and irreparable injury to Plaintiffs and members of the Plaintiff class by denying them an equal opportunity to participate in the political process and to elect candidates of their choice to public office. Plaintiffs

have no plain, speedy, or adequate remedy at law. Unless restrained and enjoined by this Court Defendants will continue to deny Plaintiffs and those similarly situated their rights.

IV. *Violations*

A. *First Cause of Action: Section 5 of the Voting Rights Act.*

60.

The actions of Defendants in failing to pre-clear the change of conducting an election for Trustees of Hampton County School Districts Number One and Number Two without having certified the results of the enabling referendum for such election to the South Carolina Code Commissioner, violates the rights of Plaintiffs guaranteed by 42 U.S.C. Section 1973c.

61.

The action of Defendants in failing to pre-clear the change of accepting filings for candidates for Trustees of Hampton County School Districts Number One and Number Two during the period between August 23 and August 31, 1982, pursuant to the provisions of Act R398, after said act became unenforceable, violates the rights of Plaintiffs guaranteed by 42 U.S.C. Section 1973c.

62.

The actions of Defendants in failing to pre-clear the change of conducting an election pursuant to provisions of Act R398, without having first sought authority for a filing period for candidates for the positions of Trustees of School Districts Number One and Number Two and without having accorded any opportunity whatsoever for filing of candidates for those positions once Act R398 became

ostensibly enforceable after November 18, 1982, violates the rights of Plaintiffs guaranteed by 42 U.S.C. Section 1973c.

63.

The actions of Defendants in failing to pre-clear the change of conducting an election for Trustees of Hampton County School Boards Number One and Number Two on a date after May, 1982, the period which was specified for the conduct of elections under provisions of Act R398, violates the rights of Plaintiffs guaranteed by 42 U.S.C. Section 1973c.

64.

The actions of Defendants in failing to pre-clear the change of abolishing the elective office of Hampton County Superintendent of Education and conferring the duties of that office to the Trustees of Hampton County School Boards Number One and Number Two, violates the rights of Plaintiffs guaranteed by 42 U.S.C. Section 1973c.

B. *Second Cause of Action: Section 2 of the Voting Rights Act.*

65.

By virtue of the foregoing, the implementation of Act R398 and the intentions to conduct an election on March 15, 1983, thereunder, has been imposed or applied by Defendants in a manner which results in a denial or abridgement of the right of Plaintiffs and those similarly situated to vote on account of race or color, and as a result, black citizens have less opportunity than whites to participate in the political process and to elect candidates of their choice, all in violation of the rights of Plaintiffs and those similarly situated secured by Section 2 of the Voting Rights

Act of 1965, as amended, Pub. L. No. 97-205, 96 STAT. 134 (1982).

C. *Third Cause of Action: Fourteenth and Fifteenth Amendments.*

66.

By virtue of the foregoing, the implementation of Act R398 had been adopted and maintained for the discriminatory purpose of diluting, minimizing, and cancelling out black voting strength in violation of the rights of Plaintiffs and those similarly situated secured by the Fourteenth and Fifteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983.

V. *Equitable Relief*

67.

There is a real and actual controversy between the parties. Plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief. Plaintiffs are suffering irreparable injury as a result of the acts of Defendants complained of herein and that injury will continue unless enjoined by this Court.

68.

The acts of Defendants described above are maintained under color of the State of South Carolina and under color of the Defendants' respective offices as officers and agents of the State, Hampton County, Hampton County Election Commission, Hampton County School District Number One and Hampton County School District Number Two.

WHEREFORE, premises considered, Plaintiffs respectfully pray that this Court set a speedy hearing of this matter, and:

(a) take jurisdiction of this matter;

(b) convene a district court of three judges pursuant to 42 U.S.C. Section 1973c;

(c) as a three judge court:

(1) enter a preliminary and permanent injunction forbidding the implementation of South Carolina Act R398, H3645 (1982) without pre-clearance of: (a) the change of conducting an election for Trustees without first certifying the results of the enabling referendum to the South Carolina Code Commissioner as required by the act, (b) the change of opening a filing period for candidates for Trustees under Act R398 during the period of August 23-31, 1982, when the said Act was enforceable, (c) the change of conducting an election as provided for by Act 398 without first providing for a filing period for candidates for the positions of Trustees, once the Act was ostensibly enforceable, and prior to the scheduled election, (d) the change of the date of the elections provided for in Act R398 from May, 1982, to a subsequent time without enabling legislation, and (e) the change of abolishing the elective Office of County Superintendent of Education and conferring the duties of that office upon the Trustees of Hampton County School Districts Number One and Number Two;

(2) declare the actions of the Defendants complained of to be in violation of Plaintiffs' rights under 42 U.S.C. Section 1973c;

(3) enter preliminary and permanent injunctions forbidding the conduct of elections for Trustees of Hampton County School Districts Number One

and Number Two under the provisions of Act R398, H3645; and

(4) grant such other and further relief as the Court may deem necessary and proper in the premises.

(d) as a single judge court:

(1) declare that the rights to due process of law of Plaintiffs Brooks, Gordon and Dixon, DeLoach and other Plaintiffs have been violated by the implementation of Act R398, H3645 (1982);

(2) declare that Act R398, H3645 (1982) unlawfully dilutes black voting strength and denies to Plaintiffs and those similarly situated their rights secured by Section 2 of the Voting Rights Act of 1965, as amended, and by the Fourteenth and Fifteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983;

(3) declare that Act 311 is of full effect and has the force of law and that the members of the Hampton County Board of Education elected thereunder shall be duly sworn to the offices to which they were elected on November 2, 1982;

(4) declare that the Hampton County Board of Education is the sole governing body of the Hampton County School System pursuant to its June 23, 1982, Order of Consolidation, which has been enacted according to the requirements of state law;

(5) declare that the Office of the Hampton County Superintendent of Education is provided by the laws of South Carolina and is the sole administrative entity for the Hampton County School System;

(6) grant preliminary and permanent injunctive relief restraining and enjoining the Defendants, their officers, agents, employees attorneys, and successors in office, and all persons in active concert and participation with them, from any further implementation or enforcement of, and from holding any elections under South Carolina Act R398, H3645 (1982);

(7) grant Plaintiffs their costs of court, necessary expenses of the litigation, and reasonable attorneys' fees as provided by 42 U.S.C. Section 1973 1(e) and 1988;

(8) grant Plaintiffs such other relief as may be just and equitable.

Respectfully submitted,

JOHN R. HARPER II, Attorney at Law, P.A.

By: /s/ JOHN R. HARPER II
John R. Harper II
3706 North Main Street
P.O. Box 843
Columbia, SC 29202
(803) 799-2798

THOMAS I. ATKINS, Esq.
MARGARET FORD, Esq.
186 Remsen Street
Brooklyn, NY 11201
(212) 858-0800

Columbia, South Carolina

March 10, 1983

Answer of Hampton County Election Commission, *et al.*

The Defendants, the Hampton County Election Commission, Randolph Murdaugh, III, individually and as Chairperson of the Hampton County Election Commission, Richard Sinclair, James Wooten and W. H. Smith, individually and as members of the Hampton County Election Commission, by way of answering the Complaint allege:

FOR A FIRST DEFENSE

That these Defendants allege that the Complaint shows on its face that the alleged federal questions are frivolous and unsubstantial.

FOR A SECOND DEFENSE

That these Defendants allege that the Complaint fails to state a claim against these Defendants upon which relief can be granted.

FOR A THIRD DEFENSE

That these Defendants, at all times relevant hereto, acted in good faith and within the scope of their official duties.

FOR A FOURTH DEFENSE

That these Defendants allege that during the performance or nonperformance of the acts alleged in the Complaint they did not perform any acts or fail to perform any acts corruptly, in bad faith or with a malicious motive.

FOR A FIFTH DEFENSE

1. That these Defendants deny any allegation of the Complaint not hereinafter either expressly admitted, qualified, or explained.

2. That paragraphs 1, 2, 3, and 10 of the Complaint consist of a characterization of the suit to which response is not necessary.

3. That these Defendants admit the allegations contained in paragraphs 15, 16, 17, 34, 36, 42, 44 and 49 of the Complaint.

4. That these Defendants admit upon information and belief the allegations contained in paragraphs 4, 5, 7, 8, 9, 12, 13, 14, 22, 23 and 39 of the Complaint.

5. That these Defendants allege that they are without knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 20, 24, 25, 26, 27, 28 and 30 of the Complaint, and, therefore, deny the same.

6. That these Defendants deny the allegations contained in paragraphs 43, 45, 46, 47, 48, 50, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 of the Complaint.

7. That these Defendants admit upon information and belief the allegations contained in paragraph 6 that Plaintiffs Brooks, Gordon, and Dixon were elected on November 2, 1982, to the Hampton County Board of Education, and deny the remaining allegations contained in paragraph 6.

8. That these Defendants admit the allegations contained in paragraph 11 of the Complaint, and by way of further answering would allege that the scheduled election was held on March 15, 1983, and that Plaintiff W. M. Hazel is also a member of the Hampton County Election Commission which is sued as a defendant.

9. That these Defendants admit so much of paragraph 18 of the Complaint as alleges that the Hampton County Election Commission, Hampton County School Districts Number One and Two and Hampton County, would come within the provisions of the Voting Rights Act and as to the remaining allegations would crave reference to 42

U.S.C. §1973 1(c)2 as to an accurate definition of the terms involved.

10. That these Defendants admit the allegations contained in paragraph 19 of the Complaint and by way of further answering would allege that these defendants would only have the power to submit a voting change effectuated by these defendants, any state-wide act or local ordinance would be submitted by the designated submitting authorities.

11. That these Defendants admit so much of paragraph 21 as alleges the official voter registration figures indicate black voters predominate in the area which comprises School District Number Two and lack sufficient information to form a belief as to the remaining allegations and, therefore, deny the same.

12. That these Defendants lack sufficient information to form a belief as to why R311 was introduced and, therefore, deny that allegation contained in paragraph 29 and admit the remaining allegations.

13. That these Defendants by way of answering paragraph 31 of the Complaint would admit the allegations setting out the provision of R398 of 1982 and would deny the remaining allegations contained in the first paragraph of 31; by way of answering the second paragraph of 31 these Defendants would admit that on May 25, 1983, a referendum was conducted by the Hampton County Election Commission which resulted in the voters approving a proposal to abolish the Hampton County Board of Education and the Office of Hampton County Superintendent of Education with their respective duties to devolve upon the Trustees for Hampton County School Districts Numbers One and Two and would deny the remaining allegations contained in the second paragraph of 31; by way of further answering these Defendants would allege that the

results were forwarded to the Code Commission on May 27, 1982; by way of answering the third paragraph of 31 these Defendants would deny that Randolph Murdaugh made the announcement alleged in this paragraph and would assert that they lack sufficient information to form a belief as to whether or not Representative McTeer made such a statement and, therefore, deny the same; these Defendants admit the allegation contained in paragraph four of 31; by way of answering paragraph five of 31 these Defendants would admit upon information and belief so much of this paragraph as alleges on June 23, 1983, the Hampton County Board of Education adopted an Order attempting to consolidate Hampton County School Districts One and Two into a single county-wide school district and that on June 30, 1982, they adopted a document styled "Vote of Hampton County Board of Education to Rescind Order of Consolidation," that they lack sufficient information as to the allegations regarding the circumstances regarding the vote taken and would, therefore, deny the same, and would deny the remaining allegations.

14. That these Defendants would admit so much of paragraph 32 as alleges there is no express procedure in South Carolina law for rescission of action of the County Board of Education to consolidate school districts within a county and would deny the remaining allegations contained in paragraph 32.

15. That these Defendants would admit the allegations contained in paragraph 33 that allege that under the provisions of R398 the County Election Commission opened filing for candidates on August 16, 1982, and also received filing for candidates for the positions of Trustees of School Districts One and Two and that no "legal notices" of filing were issued.

16. That these Defendants would admit so much of the allegations contained in paragraph 35 that allege the Elec-

tion Commission accepted filings for both the candidates for Trustees from School Districts One and Two under the provisions of R398 and for candidates for the Hampton County School Board pursuant to the provisions of R311 for an election to be held on November 2, 1982, and would deny the remaining allegations contained in paragraph 35.

17. That these Defendants would admit so much of paragraph 37 as alleges that the elected Hampton County Board of Education has not been sworn into office which was to commence January 1, 1983, and would deny the remaining allegations.

18. That these Defendants admit so much of paragraph 38 as alleges that the South Carolina Attorney General's Office requested the United States Department of Justice to reconsider its objection to R398 and that the objection was later withdrawn, further these Defendants crave reference to Plaintiffs' Exhibit 17 for the exact language of the letter from the Department of Justice, the remaining allegations are denied.

19. That these Defendants admit so much of paragraph 40 alleges that the Election Commission prepared for an election pursuant to R398 and had a Notice of the Election published, the remaining allegations are denied.

20. That these Defendants would admit upon information and belief so much of paragraph 41 as alleges that Plaintiffs Brooks, Adam Major and Perkins Farmer went to the Election Commission to file for vacancies on the two school district boards created by Act 398, that they admit that the Clerk of the Election Commission would have refused to accept filings after the date specified in R398, August 31, and would allege that they lack sufficient information to form a belief as to the remaining allegations and, therefore deny the same.

21. That these Defendants would admit so much of paragraph 51 as alleges that the election for the Hampton County School Districts One and Two was proceeded with and deny the remaining allegations.

22. That these Defendants admit so much of paragraph 52 as alleges R398 provides for a school system which is governed by two separate school boards elected by a vote of the electors within the respective districts and has the effect of abolishing the present county-wide elected Hampton County Superintendent of Education and deny the remaining allegations.

23. That these Defendants by way of answering paragraph 68 would admit that all of these Defendants' actions were maintained under color of State law and their Office.

WHEREFORE, having answered the Complaint herein, these Defendants demand that it be dismissed with cost and pray that the Court grant them attorney fees and such other relief as the Court may deem just and proper.

T. TRAVIS MEDLOCK
Attorney General

TREVA G. ASHWORTH
Senior Assistant Attorney General

EMORY SMITH
Assistant Attorney General

By: /s/ TREVA ASHWORTH
Attorneys for Defendants, Hampton County Election Commission, Randolph Murdaugh, III, Richard Sinclair, James Wooten, W. H. Smith

Columbia, South Carolina

April 20, 1983.

Answer of Defendants Hampton County School District Number One and Phillip Stanley, Lenon Brooker, Rebecca Badger, Wiley Kessler and Gerald Ulmer, Trustees of Hampton County School District No. 1

The defendants Hampton County School District No. 1 ("District 1") and Phillip Stanley, Lenon Brooker, Rebecca Badger, Wiley Kessler and Gerald Ulmer, Members of the Board of Trustees of District 1 ("Trustees of District 1"), for their answer to the complaint, respectfully allege that:

FOR A FIRST DEFENSE

1. All allegations of the complaint not hereinafter expressly admitted are denied.

2. The allegations of paragraphs 1, 2 and 3 constitute a characterization of the action as to which response is unnecessary.

3. As to the allegations of paragraph 4, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

4. The allegations of paragraph 5 are admitted on information and belief.

5. The allegations of paragraph 6 are denied except that these defendants admit that the plaintiffs Brooks, Gordon and Dixon were elected as members of the Hampton County Board of Education on November 2, 1982.

6. The allegations of paragraph 7 are admitted on information and belief.

7. As to the allegations of paragraphs 8 and 9, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

8. The allegations of paragraph 10 constitute a characterization of the action as to which response is unnecessary.

9. The allegations of paragraph 11 are admitted on information and belief.

10. The allegations of paragraph 12 are admitted as of the time of the filing of this action; however, the current Trustees of Dstrict 1, who were duly elected on March 15, 1983, have qualified and are acting, are Phillip Stanley, Lenon Brooker, Jerlyn Hutto, Miles Freemen and Gerald Ulmer.

11. The allegations of paragraph 13 are admitted as of the time of the filing of this action.

12. As to the allegations of paragraph 14, these defendants admit that the defendants Cohen, Wood, Hopkins, Crews and Bowers are members of the defendant Hampton County Council and, as to the remaining allegations, they crave reference to Sections 4-9-10 *et seq.*, Code of Laws of South Carolina, 1976, amended, for an accurate statement as to the jurisdiction of the defendant Hampton County Council over school matters.

13. The allegations of paragraph 15 are admitted on information and belief.

14. The allegations of paragraphs 16 and 17 are admitted.

15. As to the allegations of paragraph 18, these defendants admit them as to the defendants Hampton County School Districts Numbers 1 and 2 and Hampton County with respect to local ordinances, orders, resolutions or other

local actions, but deny them as to the defendant Hampton County Election Commission.

16. As to the allegations of paragraph 19, these defendants admit that they have the authority and duty to comply with the applicable requirements, if any, of Section 5 of the Voting Rights Act of 1965.

17. As to the allegations of paragraphs 20 and 21, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

18. The allegations of paragraphs 22 and 23 are admitted on information and belief.

19. As to the allegations of paragraph 24, these defendants allege that for the 1982-83 school year there are enrolled in District 1 1454 black students and 1214 white students and, as to the remaining allegations, they allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

20. As to the allegations of paragraph 25, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

21. As to the allegations of paragraph 26 relating to the South Carolina Department of Education document, these defendants crave reference to Exhibit 7 attached to the complaint for an accurate statement of its contents and, as to the remaining allegations, they allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

22. The allegations of paragraph 27 are denied.

23. As to the allegations of paragraph 28, these defendants admit that as of January 1, 1982, there were three black and three white members of the appointed Hampton County Board of Education; and, as to the remaining allegations, they are without knowledge or information sufficient to form a belief as to the truth thereof.

24. As to the allegations of paragraph 29, these defendants admit that the South Carolina General Assembly enacted legislation in February, 1982, providing for an elected Hampton County Board of Education, a copy of which is attached to the complaint as Exhibit 8; they further allege that that legislation was subsequently repealed by implication by the enactment of Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9.

25. As to the allegations of paragraph 30, these defendants admit that a petition signed by black and white citizens from throughout Hampton County seeking an advisory referendum on the question of whether or not the offices of the Hampton County Board of Education and the Hampton County Superintendent of Education should be abolished was presented to the defendant Hampton County Council; that the defendant Hampton County Council took action to conduct the advisory referendum while, at the same time, enabling legislation calling for a similar referendum was enacted by the South Carolina General Assembly as Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9; and the remaining allegations of paragraph 30 are denied.

26. As to the allegations of paragraph 31, these defendants crave reference to Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9, for an accurate statement as to its contents; further, these defendants admit that a referendum was conducted on May

25, 1982, and the voters of Hampton County approved the abolishment of the Hampton County Board of Education and the Hampton County Superintendent of Education and the transfer of their respective duties to the boards of trustees of Hampton County School Districts 1 and 2; further, these defendants admit that the defendant Hampton County Election Commission proceeded with the implementation of Act No. 549 of 1982 by announcing the filing period for candidates for the two boards of trustees as August 16—31, 1982, as provided by that Act; further, these defendants admit that on June 23, 1982, the Hampton County Board of Education purported to consolidate the two defendant Hampton County School Districts by order, which order was subsequently rescinded, copies of which orders are attached to the complaint as Exhibits 10 and 12 respectively; and the remaining allegations of paragraph 31 are denied.

27. As to the allegations of paragraph 32, these defendants admit that there is no express statutory method by which to rescind a valid order of consolidation under South Carolina law and the remaining allegations of paragraph 32 are denied.

28. As to the allegations of paragraph 33, these defendants admit that the defendant Hampton County Election Commission opened the filing period for candidates for the two boards of trustees on August 16, 1982, and, as to the remaining allegations, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

29. As to the allegations of paragraph 34, these defendants crave reference to the August 23, 1983, letter from the United States Department of Justice, a copy of which

is attached to the complaint as Exhibit 13, for an accurate statement as to its contents.

30. As to the allegations of paragraph 35, these defendants admit that the defendant Hampton County Election Commission accepted filings for candidates for the two boards of trustees and, as to the remaining allegations, they allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

31. The allegations of paragraph 36 are admitted with the explanation that the terms of office of the successful candidates are determined by the provisions of Act No. 547 of 1982, a copy of which is attached to the complaint as Exhibit 8.

32. As to the allegations of paragraph 37, these defendants admit that the plaintiff members of the Hampton County Board of Education elected in the November 2, 1982, general election have not been sworn into office and are not presently acting in those positions; and the remaining allegations are denied.

33. As to the allegations of paragraph 38, these defendants admit that the United States Department of Justice was requested by the South Carolina Attorney General's Office to reconsider its objection to Act No. 549 of 1982 and that the objection was withdrawn on November 19, 1982; further, these defendants crave reference to the November 19, 1982, letter, a copy of which is attached to the complaint as Exhibit 17, for an accurate statement as to its contents; and the remaining allegations are denied.

34. As to the allegations of paragraph 39, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

35. The allegations of paragraph 40 are denied except that these defendants admit that the defendant Hampton County Election Committee published a notice of election scheduling the elections for the two boards of trustees for March 15, 1983.

36. As to the allegations of paragraph 41, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

37. The allegations of paragraph 42 are admitted.

38. The allegations of paragraph 43 are denied.

39. As to the allegations of paragraph 44, these defendants admit that Act R398 (No. 549) is being implemented.

40. The allegations of paragraphs 45, 46, 47 and 48 are denied.

41. The allegations of paragraph 49 are admitted.

42. The allegations of paragraph 50 are denied.

43. The allegations of paragraph 51 are denied except that the March 15, 1983, election of members of the two boards of trustees was held.

44. As to the allegations of paragraph 52, these defendants crave reference to Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9, for an accurate statement as to its contents and deny the remaining allegations.

45. The allegations of paragraph 53 through 67 inclusive are denied.

Answer of Hampton County School District Number One, et al.

46. As to the allegations of paragraph 68, these defendants admit that their actions with respect to the plaintiffs have been taken under color of law of the State of South Carolina and under their offices as members of the board of trustees of Hampton County School District No. 1, but deny that those actions have violated the plaintiffs' rights or are otherwise unconstitutional.

FOR A SECOND DEFENSE

47. As public officers, the defendant Trustees of District 1 acted at all times relevant within the scope of their duties under the Constitution and laws of the State of South Carolina, acted within the range of discretion permitted holders of those offices under South Carolina law and acted with a reasonable good faith belief that their actions with respect to the plaintiffs were constitutional and valid.

WHEREFORE, having answered the complaint herein, the defendants District 1 and Trustees of District 1 demand that it be dismissed with costs and pray that the Court grant them attorney's fees and such other and further relief as to the Court may seem proper and just.

SINKLER GIBBS & SIMONS
Post Office Box 11458
Columbia, South Carolina 29211

/s/ KAREN LE CRAFT HENDERSON
Attorneys for the defendants
District 1 and Trustees of
District 1

April 20, 1983

Columbia, South Carolina

Amended Answer of Defendants Hampton County School District Number Two and T.M. Dixon, Willie J. Orr, Virgin Johnson, Jr., Rufus Gordon, and Lee Manigo, Trustees of Hampton County School District No. 2

The defendants Hampton County School District No. 2 ("District") and T. M. Dixon, Willie J. Orr, Virgin Johnson, Jr., Rufus Gordon and Lee Manigo, Members of the Board of Trustees of District 2 ("Trustees of District 2"), for their amended answer to the complaint, respectfully allege that:

FOR A FIRST DEFENSE

1. All allegations of the complaint not hereinafter expressly admitted are denied.

2. The allegations of paragraphs 1, 2 and 3 constitute a characterization of the action as to which response is unnecessary.

3. As to the allegations of paragraph 4, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

4. The allegations of paragraph 5 are admitted.

5. As to the allegations of paragraph 6, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the claim that Plaintiff Brooks and erstwhile plaintiffs Gordon and Dixon were *duly* elected as members of the Hampton County Board of Education on November 2, 1982; but these defendants admit that the plaintiff Brooks and the previous plaintiffs Gordon and Dixon were elected as members of the Hampton County Board of Education on November 2, 1982.

Amended Answer of Hampton County School District Number Two

6. The allegations of paragraph 7, 8, and 9 are admitted on information and belief.

7. The allegations of paragraph 10 constitutes a characterization of the action as to which response is unnecessary.

8. The allegations of paragraph 11 are admitted on information and belief.

9. The allegations of paragraph 12 are admitted as of the time of the filing of this action.

10. The allegations of paragraph 13 are admitted as of the time of this action; however, the current Trustees of District Two, who were duly elected on March 15, 1983, have qualified and are acting, are T. M. Dixon, Willie J. Orr, Virgix Johnson, Jr., Rufus Gordon and Lee Manigo.

11. As to the allegations of paragraph 14, these defendants admit that the defendants Cohen, Wood Hopkins, Crews and Bowers are members of the defendant Hampton County Council and to the remaining allegations, they crave reference to Sections 4-9-10 *et seq.*, Code of Laws of South Carolina, 1976, as amended, for an accurate statement as to the jurisdiction of the defendant Hampton County Council over school matters.

12. The allegations of paragraph 15 are admitted on information and belief.

13. The allegations of paragraph 16 and 17 are admitted.

14. As to the allegations of paragraph 18, these defendants admit them as to the defendants Hampton County School Districts Numbers 1 and 2 and Hampton County

Amended Answer of Hampton County School District Number Two

with respect to local ordinances, orders, resolutions or other actions. These defendants are without knowledge or information sufficient to form a belief as to the applicability of the Act to the defendant Hampton County Election Commission.

15. As to the allegations of paragraph 19, these defendants admit that they have the authority and duty to comply with the applicable requirements, if any, of Section 5 of the Voting Rights Act of 1965.

16. As to the allegations of paragraph 20 and 21, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

17. The allegations of paragraphs 22 and 23 are admitted on information and belief.

18. As to the allegations of paragraph 24, these defendants allege that for the 1982-83 school year are enrolled in District Two *1436* black students and *120* white students and, as to the remaining allegations, they allege they are without knowledge or information sufficient to form a belief as to the truth thereof.

19. As to the allegations of paragraph 25, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

20. As to the allegations of paragraph 26, relating to the South Carolina Department of Education document, these defendants crave reference to Exhibit 7 attached to the complaint for an accurate statement of its contents and, as to the remaining allegations, they allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

Amended Answer of Hampton County School District Number Two

21. As to the allegations of paragraph 27, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

22. As to the allegations of paragraph 28, these defendants admit that as of January 1, 1982, there were three black and three white members of the appointed Hampton County Board of Education; and, as to the remaining allegations, they are without knowledge or information sufficient to form a belief as to the truth thereof.

23. As to the allegations of paragraph 29, these defendants admit that the South Carolina General Assembly enacted legislation in February, 1982, providing for an elected Hampton County Board of Education, a copy of which is attached to the complaint as Exhibit 8; they further allege that the legislation was subsequently repealed by implication by the enactment of No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9.

24. As to the allegations of paragraph 30, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

25. As to the allegations of paragraph 31, these defendants crave reference to Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9, for an accurate statement as to its contents; further, these defendants admit that a referendum was conducted on May 25, 1982, and the voters of Hampton County approved the abolishment of the Hampton County Board of Education and the Hampton County Superintendent of Education and the transfer of their respective duties to the boards of trustees of Hampton County School Districts 1 and 2; further, these defendants admit that on June 23, 1982, the

Amended Answer of Hampton County School District Number Two

Hampton County Board of Education purported to consolidate the two defendant Hampton County School Districts by order; further, these defendants admit that on June 30, 1982, the Hampton County Board of Education purported to rescind the order of consolidation, copies of which orders are attached to the complaint as Exhibits 10 and 12 respectively; and these defendants are without knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 31.

26. As to the allegations of paragraph 32, these defendants admit that there is not express statutory method by which to rescind a valid order of consolidation under South Carolina law and the remaining allegations of paragraph 32 are denied.

27. As to the allegations of paragraph 33, these defendants admit that the defendant Hampton County Election Commission opened the filing period for candidates for the two boards of trustees on August 16, 1982, and, as to the remaining allegations, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

28. As to the allegations of paragraph 35, these defendants crave reference to the August 23, 1983, letter from the United States Department of Justice, a copy of which is attached to the complaint as Exhibit 13, for an accurate statement as to its contents.

29. As to the allegations of paragraph 35, these defendants admit that the defendant Hampton County Election Commission accepted filings for candidates for the two boards of trustees and, as to the remaining allegations, they allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

Amended Answer of Hampton County School District Number Two

30. The allegations of paragraph 36 are admitted with the explanation that the terms of office of the successful candidates are determined by the provisions of Act No. 547 of 1982, a copy of which is attached to the complaint as Exhibit 8.

31. As to the allegations of paragraph 37, these defendants admit that the plaintiff members of the Hampton County Board of Education elected in the November 2, 1982, general election have not been sworn into office and are not presently in those positions; and these defendants are without knowledge and information sufficient to form a belief as to the truth of the remaining allegations thereof.

32. As to the allegations of paragraph 38, these defendants admit that the United States Department of Justice was requested by the South Carolina Attorney General's Office to reconsider its objection to Act No. 529 of 1982 and that the objection was withdrawn on November 19, 1982; further, these defendants crave reference to the November 19, 1982, letter, a copy of which is attached to the complaint as Exhibit 17, for an accurate statement as to its contents; and the remaining allegations are denied.

33. As to the allegations of paragraph 39, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

34. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40 except that these defendants admit that the defendant Hampton County Election Committee published a notice of election scheduling the elections for the two boards of trustees for March 15, 1983.

Amended Answer of Hampton County School District Number Two

35. As to the allegations of paragraph 41, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth thereof.

36. The allegations of paragraph 42 are admitted.

37. The allegations of paragraph 43 are denied.

38. As to the allegations of paragraph 44, these defendants admit that Act R398 (No. 549) is being implemented.

39. The allegations of paragraphs 45, 46, 47 and 48 are denied.

40. The allegations of paragra[illegible]49 are admitted.

41. The allegations of paragraph 50 are denied.

42. The allegations of paragraph 51 are denied except that the March 15, 1983, election of members of the two boards of trustees was held.

43. As to the allegations of paragraph 52, these defendants crave reference to Act No. 549 of 1982, a copy of which is attached to the complaint as Exhibit 9, for an accurate statement as to its contents and deny the remaining allegations.

44. These defendants admit a history of discrimination of the kind alleged in paragraph 53; but deny the existence of any such discrimination with respect to any election or legislative activities pertinent to Civil Action No. 83-612-6.

45. As to the allegations of paragraph 54, these defendants are without knowledge or information sufficient to form a belief about the truth thereof.

Amended Answer of Hampton County School District Number Two

46. These defendants admit the history of discrimination of the kind alleged in paragraph 55 but deny that the existence of such alleged discrimination contributed to the political, legislative or election activities associated with this law suit.

47. These defendants admit that in the past, political campaigns and referenda in Hampton County have been characterized by overt and subtle racial appeals but deny that the political campaigns and referendum associated with this suit were so characterized.

48. The allegations of paragraphs 57 and 67 inclusive are denied.

49. As to the allegations of paragraph 68, these defendants admit that their actions with respect to the plaintiffs have been taken under color of law of the State of South Carolina and under their offices as members of the board of trustees of Hampton County School District No. 1, but deny that those actions have violated the plaintiffs' rights or are otherwise unconstitutional.

FOR A SECOND DEFENSE

50. As public officers, the defendant Trustees of District 2 acted at all times relevant within the scope of their duties under the Constitution and laws of the State of South Carolina, acted within the range of discretion permitted holders of those offices under South Carolina law and acted with a reasonable good faith belief that their actions with respect to the plaintiffs were constitutional and valid.

WHEREFORE, having answered the complaint herein, the defendants District 1 and Trustees of District 1 demand

Amended Answer of Hampton County School District Number Two

that it be dismissed with costs and pray that the Court grant them attorney's fees and such other and further relief as to the Court may seem proper and just.

/s/ BRUCE E. DAVIS
Bruce E. Davis
P. O. Box 881
Camden, South Carolina 29020

McNAIR GLENN KONDUROS CORLEY
SINGLETARY PORTER DIBBLE, P.A.
P. O. Box 11390
Columbia, South Carolina 29211

/s/ M. ELIZABETH CRUM
M. Elizabeth Crum
Jane W. Trinkley

September 29, 1983

Camden, South Carolina

Letter of Gerald W. Jones to C. Havird Jones, Jr., April 27, 1982

U.S. Department of Justice

[EMBLEM]

Washington, D.C. 20530

WBR:CWG:DEK:gml
DJ 166-012-3
E3227

April 27, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R269 (1981), which provides for the reapportionment of the county council of Greenville County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on March 25, 1982. In accordance with your request expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32).

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional in-

Letter of Gerald W. Jones to C. Havird Jones, Jr., April 27, 1982

formation that would otherwise require an objection comes to his attention during the remainder of the sixty-day period.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

/s/ GERALD W. JONES
Gerald W. Jones
Chief, Voting Section

Letter of Gerald W. Jones to C. Havird Jones, Jr., April 28, 1982

U.S. Department of Justice

[EMBLEM]

Washington, D.C. 20530

WBR:CWG:KQ:gml
DJ 166-012-3
E5549

April 28, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R311 (1982), which provides for the election of the board of education in Hampton County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on February 27, 1982.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

/s/ Illegible
for Gerald W. Jones
Chief, Voting Section

Letter of Gerald W. Jones to C. Havird Jones, Jr., June 2, 1982

U.S. Department of Justice

[EMBLEM]

Washington, D.C. 20530

WBR:CWG:JGH:gml
DJ 166-012-3
E7254

June 2, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R413 (1982), which establishes the filing period for candidates seeking nomination to any district within certain counties in the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on April 27, 1982. In accordance with your request expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32).

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional in-

Letter of Gerald W. Jones to C. Havird Jones, Jr., June 2, 1982

formation that would otherwise require an objection comes to his attention during the remainder of the sixty-day period.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

/s/ Illegible
for Gerald W. Jones
Chief, Voting Section

Act No. R 413 (1982)

A JOINT RESOLUTION

To Delay for 1982 Only the Filing Period from Noon, March 16th, to Noon, March 30th, Until Noon, April 23rd, to Noon, May 7th, for Candidates Seeking Nomination to Any District Within a County Which Has Been or Is Being Reapportioned and as of March 1, 1982. Has Not Received Preclearance Pursuant to the Provisions of Section 5 of the 1965 Voting Rights Act.

Whereas, the General Assembly, by a 1982 act bearing ratification number 366, delayed the filing period for certain offices within a county to allow adequate time for the adoption of new redistricting plans and proper notice to all candidates of the new district lines; and

Whereas, the General Assembly now finds that a substantial number of the counties have completed their redistricting plans and are ready to proceed with the election process. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. A. Notwithstanding any other provision of law, the provisions of this Joint Resolution shall be applicable during the calendar year 1982 only.

B. The filing period for candidates seeking nomination to any district within a county which has been or is being reapportioned and as of March 1, 1982, has not received preclearance pursuant to the provisions of Section 5 of the 1965 Voting Rights Act (42 USCA Sections 1973 et seq.) shall begin at noon on April 23, 1982, and shall close at noon on May 7, 1982.

C. The filing period for the nomination of candidates for all the offices in a party primary shall be held as provided for by law.

Section 2. This act shall take effect upon approval by the Governor.

Letter of Gerald W. Jones to C. Havird Jones, Jr., June 4, 1982

U.S. Department of Justice

[EMBLEM]

Washington, D.C. 20530

WBR:CWG:ELG:gml
DJ 166-012-3
E7064

June 4, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R362 (1982), which provides for the redistricting of councilmanic districts in Cherokee County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on April 5, 1982.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

/s/ GERALD W. JONES
Gerald W. Jones
Chief, Voting Section

Letter of Gerald W. Jones to Marion S. Riggs, June 22, 1982

U.S. Department of Justice

[EMBLEM]

Washington, D.C. 20530

WBR:CWG:RMW:rnh
DJ 166-012-3
E7946

June 22, 1982

Marion S. Riggs, Esq.
Rogers, Riggs and Rogers
P. O. Box 487
Manning, South Carolina 29102

Dear Ms. Riggs:

This is in reference to Ordinance No. 3 (1982), which reapportions Clarendon County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on April 23, 1982. Although we noted your request for expedited consideration, we have been unable to respond until this time.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

/s/ Illegible
for Gerald W. Jones
Chief, Voting Section

Letter of William Bradford Reynolds to C. Havird Jones, Jr., August 23, 1982

U.S. Department of Justice
Civil Rights Division

[EMBLEM]

Office of the Assistant Attorney General

Washington, D.C. 20530

August 23, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R398 (1982), which abolishes the county board of education and superintendent of education and changes the method of selecting the members of the boards of education for Districts 1 and 2 from appointive to elective in Hampton County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on June 22, 1982. Although we noted your request for expedited consideration, we have been unable to respond until this time.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See *Georgia* v. *United States*, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.38). In reaching our determination in this matter, we have considered carefully all of the information provided with your submission as well as information from other interested parties.

Letter of William Bradford Reynolds to C. Havird Jones, Jr., August 23, 1982

Hampton County has a population that is 52 percent black. The county board of education, until now appointed, will be elected beginning in November of this year, a change precleared by this office on April 28, 1982. Under the current proposal, the boards of education for Districts 1 and 2 are also to be elected (rather than appointed) in the future. Based on the information submitted by the State, we are persuaded that this change in the District 1 and 2 Boards does not have either the purpose or effect of discriminating on the basis of race.

We cannot reach a like conclusion, however, with respect to the proposal to terminate the county board. Our analysis shows that the county board has been particularly responsive to the interests and needs of the black community in Hampton County and consistently has appointed bi-racial representation on the local boards of trustees for both School District 1 and School District 2. We remain unsatisfied on the information submitted by the State that elimination of the county board—in a county with a 52-percent black population and a system which allows the use of a plurality and single-shot method of election—does not deprive black voters of an opportunity to elect representatives of their choice who can help assure that interests of blacks will be protected on a county-wide basis.

Under these circumstances, I cannot conclude, as I must under the Voting Rights Act, that the burden of showing that these changes will not be discriminatory toward blacks has been sustained. Therefore, on behalf of the Attorney General, I must object to Act No. R398 (1982).

Of course, as provided by Section 5 of the Voting Rights Act you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote

Letter of William Bradford Reynolds to C. Havird Jones, Jr., August 23, 1982

on account of race, color or membership in a language minority group. In addition, the procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make Act No. R398 legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the State of South Carolina plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

/s/ Wm. Bradford Reynolds
Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

RECEIVED
S. C. ATTORNEY GENERAL
DATE 8-26-82

Letter of C. Havird Jones, Jr. to Representative Douglas E. McTeer, Jr., August 26, 1982

THE STATE OF SOUTH CAROLINA

[Emblem]

Office of the Attorney General
Civil Division
Rembert C Dennis Building
Post Office Box 11549
Columbia, S.C. 29211
Telephone 803-758-2072

Daniel R. McLeod
Attorney General

August 26, 1982

Representative Douglas E. McTeer, Jr.
Post Office Box 97
Early Branch, South Carolina 29916

Re: Act R398—Hampton County Board of Education

Dear Representative McTeer:

Enclosed is a copy of the letter from the Justice Department wherein they disapproved the abolishment of the Hampton County Board of Education.

After you have had an opportunity to read this letter, please let me know if you are interested in gathering supportive data to request reconsideration of their decision. A letter to Justice giving notice of this intention would need to be sent promptly.

Letter of C. Havird Jones, Jr. to Representative Douglas E. McTeer, Jr., August 26, 1982

I shall await your advice in this regard.

Sincerely,

/s/ C. Havird Jones, Jr.
C. Havird Jones, Jr.
Assistant Attorney General

CHJjr:prl

cc: J. Emory Smith, Esquire
Randall T. Bell, Esquire
John P. Linton, Esquire
William C. Anderson, Jr., Esquire
Mr. John W. Dodge
Ms. Marcia Wood

Letter of C. Havird Jones, Jr. to William Bradford Reynolds, August 31, 1982

THE STATE OF SOUTH CAROLINA

[Emblem]

Office of the Attorney General
Civil Division
Rembert C Dennis Building
Post Office Box 11549
Columbia, S.C. 29211
Telephone 803-758-2072

Daniel R. McLeod
Attorney General

August 31, 1982

HAND DELIVERED

Mr. William Bradford Reynolds
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice
Washington, D.C. 20530

Re: Act R398—Hampton County Board of Education

Dear Mr. Reynolds:

Pursuant to a request by Representative Doug McTeer, we are officially requesting reconsideration of the above-cited submission.

This submission was received by you on June 22, 1982, and was objected to by means of a letter dated August 23, 1982.

Letter of C. Havird Jones, Jr. to William Bradford Reynolds, August 31, 1982

Representative McTeer will provide additional information per his scheduled visit with your office on September 1, 1982.

Sincerely,

/s/ C. Havird Jones, Jr.
C. Havird Jones, Jr.
Assistant Attorney General

CHJjr:prl

cc: J. Emory Smith, Esquire
Randall T. Bell, Esquire
John P. Linton, Esquire
William C. Anderson, Jr., Esquire
Mr. John W. Dodge
Ms. Marcia Wood
Rep. Doug McTeer

Letter of William Bradford Reynolds to C. Havird Jones, Jr., November 19, 1982

U.S. Department of Justice

[Emblem]

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

19 NOV 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
State of South Carolina
P. O. Box 11549
Columbia, South Carolina 19111

Dear Mr. Jones:

This is in reference to your request that the Attorney General reconsider his August 23, 1982, objection under Section 5 of the Voting Rights Act of 1965, as amended, to Act No. R398 (1982), which abolishes the county board of education and superintendent of education and changes the method of selecting members of the boards of education for Districts 1 and 2 from appointive to elective in Hampton County, South Carolina. Your letter was hand delivered on September 1, 1982, along with information provided by Representative McTeer during a conference with departmental staff on that date. Information necessary for our reconsideration of the objection was also provided by Attorney John P. Linton on September 15, 1982.

We have reviewed carefully the information that you have provided to us, as well as comments and information coming to our attention from other sources. As a result of this analysis, we find that the concerns we initially had and which formed the basis for the August 23 objection to the abolishment of the county board have now been allayed.

Letter of William Bradford Reynolds to C. Havird Jones, Jr., November 19, 1982

Our major concern related to the apparent interest in portions of the black community to attempt to consolidate the two school districts and the effect of elimination of the county board as the authorizing body of any potential consolidation. A reappraisal of South Carolina law, however, establishes that the county board lacks authority to effect a consolidation and its abolition, therefore, will not have the potentially discriminatory impact we had initially perceived. In addition, although the county board had a fruitful relationship with the black community, its abolition will not prevent meaningful participation in school affairs. More recent information shows that black residents in both districts are well represented at all levels of administration and operation.

Accordingly, pursuant to the reconsideration guidelines promulgated in the Procedures for the Administration of Section 5 (28 C.F.R. 51.47), the objection interposed to the changes affecting voting contained in Act No. R398 (1982) is hereby withdrawn. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See also 28 C.F.R. 51.48.

Sincerely,

/s/ Wm. Bradford Reynolds
Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: John P. Linton, Esq.
Sinkler, Gibbs & Simons

RECEIVED
S. C. ATTORNEY GENERAL
DATE 11-23-82

Letter of Treva G. Ashworth to Randolph Murdaugh, III, January 4, 1983

THE STATE OF SOUTH CAROLINA

[Emblem]

Office of the Attorney General
Civil Division
Rembert C Dennis Building
Post Office Box 11549
Columbia, S.C. 29211
Telephone 803-758-2072

Daniel R. McLeod
Attorney General

January 4, 1983

Randolph Murdaugh, III
Peters, Murdaugh, Parker,
Eltzroth & Detrick
Post Office Box 457
Hampton, South Carolina 29924

Dear Mr. Murdaugh:

Your request for an opinion has today been referred to me for reply. You have raised various questions regarding the Acts bearing ratification numbers R-311 and R-398.

The Act bearing ratification number 311 was enacted on February 18, 1982, and provided for the composition and method of election of the Hampton County Board of Education. On April 9, 1982, R-398 was enacted. This Act submitted to the electorate a referendum on if the Hampton County Board of Education and the Office of the Hampton County Superintendent of Education should be abolished and their power devolved upon the trustees for

Letter of Treva G. Ashworth to
Randolph Murdaugh, III, January 4, 1983

Hampton County School Districts Nos. 1 and 2 and whether the trustees for Hampton County School Districts Nos. 1 and 2 should be elected. The referendum was approved by the electorate and on November 19, 1982, the United States Justice Department withdrew their previous objection to the Act. The Act provides that if the referendum results are favorable, the provisions of the Act will be implemented.

You have asked the following questions:

1. Should an election be held to elect trustees for the Hampton County School Districts Nos. 1 and 2?

Yes. On November 23, 1982, Emory Smith of this Office issued an opinion that the proposed consolidation of the two District Boards by the County Board of Education was of no effect LINE MISSING ! ! copy enclosed). Therefore, the provisions of R-398 are now in effect and it requires that an election be held for the school trustees.

2. When should such an election be held?

As soon as possible.

3. Should the filing for the respective district boards be reopened?

I assume that pursuant to the Act's provisions, it was anticipated that the election for the school trustees for Districts Nos. 1 and 2 would be conducted in the general election and that notice was given of the filing period and candidates did file within the time period specified by stat-

Letter of Treva G. Ashworth to
Randolph Murdaugh, III, January 4, 1983

ute. Assuming this to be the case, there is no reason to reopen filing as only the date of the election has changed.

Sincerely,

/s/ TREVA G. ASHWORTH
Treva G. Ashworth
Senior Assistant Attorney General

TGA:st
Enclosure

REVIEWED AND APPROVED:

/s/ VICTOR S. EVANS
Victor S. Evans
Deputy Attorney General

cc: C. Havird Jones, Esquire
Emory Smith, Esquire

Affidavit of John W. Dodge, July 13, 1983

PERSONALLY APPEARED BEFORE ME THE BELOW SIGNED, John W. Dodge, who, on oath, deposes and says he is the elected County Superintendent of Education for Hampton County, South Carolina:

1. After having served fifteen years in elementary and high school principalships he was first elected to the office in the General Election, November 1972 and took office July 1, 1973. He has twice been re-elected; the current four year term having begun July 1, 1981.

2. Acting under policy guidance of Hampton County Board of Education he has administered the functions of the Hampton County school system since 1973. He holds a valid superintendent's credential from the South Carolina State Board of Education.

3. Prior to July 1, 1982, Hampton County Office of Education answered to the appointed County Board of Education and served as the central administrative office for the schools of Hampton County. All functions were handled as required in state law including that of administrative officer for the Hampton County Board of Education.

4. He also deposes and says that there were no indications of a change in his work or the function of the Office of Education as the Board of Education became elective under R311/H3308. (Act 547, Acts and Joint Resolutions, S.C., 1982, p. 3495, February 18, 1982.)

5. Prior to July 1, 1982 in addition to being spokesman for the school system, the regular functions of his office included handling of county budgets for the schools of the county, recommending disposition of these to the County Board of Education; examination of monthly invoices before approval of district claims, comparison of all payrolls to pre-obtained job sheets, endorsing of school claims upon determination that all payments were justified, and entering all transactions into the Record of Settlement, Hampton County, South Carolina. Balance of revenue and expenditures were then determined, verified with Hampton County Treasurer on the fifteenth day of each calendar month and reported to the school districts. (The financial reports were also made available to the County Board.) Trustees appointments to the districts were made by the County Board of Education based on information gathered through the superintendent's office. The County Board of Education approved payment of claims for salaries of the county superintendent and staff. Policy for the county-wide food service and attendance programs was set by County Board of Education, however implementation was left to the districts in due regards to their operational authority.

6. July 1, 1982 with the purported enactment of R398/H3645 all receipts stopped coming from Office of the County Treasurer and district claims were submitted by district boards directly to Hampton County Treasurer's office: being paid there provided they carried at least three signatures of trustees from the district upon which the claim was drawn. No records could be kept since all transactions were made without knowledge or approval of the Education Office.

7. Confusion and hardship were generated when no provision was made for County Board of Education office workers or County Superintendent to be paid despite the fact that both South Carolina statutes R398/H3645 and 59-13-10 provided for the office to operate until June 30, 1985. A legal opinion to determine who was empowered to sign the payroll was sought through district school officials. August 23, 1982, United States Assistant Attorney General, William Bradford Reynolds, entered an objection to R398/H3645 making the act become unenforceable.

8. August 24, 1982, the requested legal opinion was received from District Superintendent Charles Phillips, over the signature of Attorney John P. Linton of the firm of Sinkler, Gibbs and Simons. Substance of the opinion was that payment could be made provided each of the separate school district boards approved the claims.

9. Following the November 23, 1982, action of the United States Assistant Attorney General, William Bradford Reynolds, allowing R398/3645 to become enforceable, receipts and disbursement claims again were not submitted to the Office of the County Superintendent. Office of the County Treasurer began honoring claims drawn without approval of the County Superintendent. No records and no check on the system could be maintained by the County Education Office. The State of South Carolina through action of the Attorney General and Finance Office of the State Department of Education began to dismantle the office by written and verbal orders, some of these having no evident basis in law.

10. As a consequence, financial information, account balances, financial analysis and the system of checks and balances implemented under the Hampton County Board of Education have ceased to be part of the system. No provision for oversight of the system exists. Any appeals from a district school board decision must go to the Circuit Courts of the State of South Carolina.

11. Food Services and Attendance personnel have been removed from the jurisdiction of the County Education Office, with the money required to be transferred to various points: Fund transfers for salaries in some cases were required to be made after the employee had already been paid. This has created confusion and actually caused the county to lose money.

12. Budgets are now taken directly from the districts to the County Council with no input or record at the County Education Office. District trustees are being elected by popular vote of two separate districts of the county. This allows for no balance of racial composition or county-wide board, and two separate boards, one totally black in District Two and one with four whites and one black in District One, maintain authority over the County Education Office for approval of payroll and expenditures. After the changes cited, District Number One failed to develop an attendance program for 1982-83 year and District Number Two is losing services of the County Food Service Supervisor for 1983-84 year.

13. On information and belief he states that the loss of the aforementioned functions will adversely affect workings of the school system and adversely affect the quality of education dispensed to children in the county system. On information and belief he states that during a majority of the last seven years of his administration he has been the only South Carolina State Board of Education credentialed superintendent practicing in the school system; accordingly the responsibility of explaining policy and performance to a county-wide populace, and the experience and training in dealing with a county-wide constituency have caused him to develop a county-wide perspective on the needs of Hampton County.

/s/ JOHN W. DODGE
John W. Dodge, County Superintendent
Hampton County, South Carolina

Sworn to before me and subscribed
before me this 13th day of July, 1983

/s/ HELEN G. GOUMONE
Notary Public of South Carolina
My commission expires 1/6/91.

Letter of Randolph Murdaugh, III to Daniel R. McLeod, November 29, 1982

November 29, 1982

Honorable Daniel R. McLeod
Attorney General
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211

Dear General McLeod:

I have just received a copy of a letter from the U.S. Department of Justice, dated November 19, 1982, and addressed to C. Havird Jones, Jr., an Assistant Attorney General in your office. I am enclosing herewith a copy of that letter. I am also enclosing herewith a copy of a Bill providing for a referendum in Hampton County.

Pursuant to the Bill providing for a referendum an election was held in May of 1982, and the referendum passed. Subsequent thereto the Justice Department objected to the Act establishing the referendum. We thereafter held an election in conjunction with the General Election for a County Board of Education provided for in the enclosed Act, this Act being dated February 18, 1982.

The Justice Department now states that the objection to the referendum is withdrawn. As Chairman of the Hampton County Election Commission I need the following questions answered:

1. Should an election be held to elect trustees for the Hampton County School Districts Nos. 1 and 2?

2. When should such an election be held?

3. Should the filing for the respective district boards be reopened? (I call your attention to the last sentence of

Letter of Randolph Murdaugh, III to Daniel R. McLeod, November 29, 1982

Section 1-B of the Bill establishing the referendum which provides that candidates offering in November of 1982, must file during the period of August 16-31, 1982.)

I would appreciate your advice in these matters.

With kind personal regards, I am

Sincerely yours,

Randolph Murdaugh, III